

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

GRIZZLY INDUSTRIAL, INC., a) NO. _____
Washington corporation,)
)
Plaintiff,) COMPLAINT FOR INFRINGEMENT OF
) COPYRIGHT
vs.) JURY DEMAND REQUESTED
)
RIKON POWER TOOLS, INC., a)
Massachusetts corporation,)
)
Defendant.)

COMPLAINT

Plaintiff, GRIZZLY INDUSTRIAL, INC., by its undersigned attorneys, for its
Complaint for Infringement of Copyright against defendant, RIKON POWER TOOLS, INC.
alleges as follows:

STATUTORY BASIS AND NATURE OF ACTION

1. This is an action for copyright infringement under the Copyright Laws of the
United States, 17 U.S.C. § 101 *et seq.*

**COMPLAINT FOR INFRINGEMENT OF
COPYRIGHT**
Case No. _____
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THE PARTIES

2. Plaintiff Grizzly Industrial, Inc. ("Plaintiff") is a Washington corporation, with its principal place of business located in Bellingham, Washington. Plaintiff is engaged in the business of manufacturing, distributing, and selling metalworking and woodworking machines, power tools, and equipment.

3. Defendant Rikon Power Tools, Inc. ("Defendant") is a Massachusetts corporation, and based upon knowledge and belief, its principal place of business is located in Billerica, Massachusetts. Defendant is engaged in the business of manufacturing, distributing, and selling metalworking and woodworking machines, power tools, and equipment throughout the United States, including this district.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.

5. Personal jurisdiction over Defendant is vested in this Court since Defendant has been engaged, and continues to engage, in business in this district. In further support of jurisdiction, Plaintiff alleges as follows:

(a) Defendant distributes its products nationwide in all 50 states, including in this District;

(b) Defendant owns and operates a website, www.rikontools.com, which allows customers nationwide, including in the state of Washington, to place orders to purchase Defendant's products via online distributors; and

(c) Defendant's website also allows customers in all 50 states, including in this district, to download Defendant's product Owner's Manuals;

(Infringement of U.S. Copyright Reg. No. TX 6-911-185)

8. Plaintiff created and developed an Owner's Manual for Plaintiff's 1" Belt/8" disc sander. A true and correct copy of Plaintiff's Owner's Manual is attached hereto and incorporated by reference as Exhibit 1. Plaintiff's Owner's Manual contains a large amount of material wholly original with Plaintiff, including text, illustrations, photographs, and compilations of terms and data.

10. On October 29, 2007, the U.S. Copyright Office issued to Plaintiff U.S. Copyright Reg. No. TX 6-911-185 entitled GRIZZLY INDUSTRIAL, INC. MODEL H8192 1" BELT/8" DISC COMBINATION SANDER OWNER'S MANUAL for Plaintiff's Owner's Manual. A true and correct copy of Certificate of Reg. No. TX 6-911-185 is attached hereto and incorporated by reference as Exhibit 2 (hereinafter the "185 Reg").

13. Plaintiff has been, and continues to be, damaged by Defendant's infringing acts, which have caused, and will continue to cause, irreparable damage to Plaintiff in such a manner that Plaintiff has no adequate remedy at law.

(Infringement of U.S. Copyright Reg. No. TX 6-882-755)

14. This count arises under the Copyright Laws of the United States, 17 U.S.C. § 101 *et seq.* Plaintiff adopts and realleges the allegations of the preceding paragraphs as if fully set forth herein.

15. Plaintiff created and developed an Owner's Manual for Plaintiff's benchtop mortising machine. A true and correct copy of Plaintiff's Owner's Manual is attached hereto and incorporated by reference as Exhibit 4. Plaintiff's Owner's Manual contains a large amount of material wholly original with Plaintiff, including text, illustrations, photographs, and compilations of terms and data.

1 16. Plaintiff has complied in all respects with Title 17 § 101 *et seq.* and all other
2 laws governing copyright and has secured the exclusive rights and privileges in and to the
3 copyright of the Owner's Manual for Plaintiff's benchtop mortising machine.

4 17. On April 10, 2008, the U.S. Copyright Office issued to Plaintiff U.S.
5 Copyright Reg. No. TX 6-882-755 entitled GRIZZLY INDUSTRIAL, INC. MODEL G0645
6 BENCHTOP MORTISING MACHINE OWNER'S MANUAL for Plaintiff's Owner's
7 Manual. A true and correct copy of Certificate of Reg. No. TX 6-882-755 is attached hereto
8 and incorporated by reference as Exhibit 5 (hereinafter the "755 Reg").
9

10 18. At all times relevant hereto, Plaintiff has been, and still is, the sole proprietor
11 of all rights, title, and interest in and to the '755 Reg.

12 19. With access to Plaintiff's copyrighted work and full knowledge of Plaintiff's
13 rights, Defendant willfully infringed Plaintiff's copyrights by copying substantial portions of
14 Plaintiff's copyrighted work for Defendant's owner's manual for Defendant's benchtop
15 mortising machine. Defendant has publically displayed and distributed Defendant's infringing
16 owner's manual. A true and correct copy of Defendant's owner's manual is attached hereto
17 and incorporated by reference as Exhibit 6.

18 20. Plaintiff has been, and continues to be, damaged by Defendant's infringing
19 acts, which have caused, and will continue to cause, irreparable damage to Plaintiff in such a
20 manner that Plaintiff has no adequate remedy at law.
21

22 /////

23 /////

24 /////

COUNT III

(Infringement of U.S. Copyright Reg. No. TX 6-334-827)

21. This count arises under the Copyright Laws of the United States, 17 U.S.C. § 101 *et seq.* Plaintiff adopts and realleges the allegations of the preceding paragraphs as if fully set forth herein.

22. Plaintiff created and developed an Owner's Manual for Plaintiff's meat cutting bandsaw. A true and correct copy of Plaintiff's Owner's Manual is attached hereto and incorporated by reference as Exhibit 7. Plaintiff's Owner's Manual contains a large amount of material wholly original with Plaintiff, including text, illustrations, photographs, and compilations of terms and data.

23. Plaintiff has complied in all respects with Title 17 § 101 *et seq.* and all other laws governing copyright and has secured the exclusive rights and privileges in and to the copyright of the Owner's Manual for Plaintiff's meat cutting bandsaw.

24. On October 29, 2007, the U.S. Copyright Office issued to Plaintiff U.S. Copyright Reg. No. TX 6-334-827 entitled GRIZZLY INDUSTRIAL, INC. MEAT CUTTING BANDSAW MODEL H6246 INSTRUCTION MANUAL for Plaintiff's Owner's Manual. A true and correct copy of Certificate of Reg. No. TX 6-334-827 is attached hereto and incorporated by reference as Exhibit 8 (hereinafter the "'827 Reg'").

25. At all times relevant hereto, Plaintiff has been, and still is, the sole proprietor of all rights, title, and interest in and to the '827 Reg.

26. With access to Plaintiff's copyrighted work and full knowledge of Plaintiff's rights, Defendant willfully infringed Plaintiff's copyrights by copying substantial portions of

1 Plaintiff's copyrighted work for Defendant's owner's manual for Defendant's meat cutting
2 bandsaw. Defendant has publically displayed and distributed Defendant's infringing owner's
3 manual. A true and correct copy of Defendant's owner's manual is attached hereto and
4 incorporated by reference as Exhibit 9.

5 27. Plaintiff has been, and continues to be, damaged by Defendant's infringing
6 acts, which have caused, and will continue to cause, irreparable damage to Plaintiff in such a
7 manner that Plaintiff has no adequate remedy at law.

8
9 **Prayer for Relief**

10 WHEREFORE, Plaintiff prays that this Court grant the following relief:

- 11 1. pursuant to Fed. R. Civ. P. 38, Plaintiff demands a trial by a jury;
- 12 2. that Defendant and its officers, shareholders, employees, agents, and all
13 persons acting for it be preliminarily and permanently enjoined from infringing Plaintiff's
14 copyrights as provided by 17 U.S.C. § 502;
- 15 3. that Plaintiff be awarded actual damages and Defendant's profits in amounts to
16 be determined at trial, including all gains and advantages derived by Defendant from its
17 infringement of Plaintiff's copyrights as provided by 17 U.S.C. § 504;
- 18 4. that in the alternative, Plaintiff be awarded statutory damages of \$30,000 for
19 each copyrighted work infringed as provided by 17 U.S.C. § 504;
- 20 5. that in the alternative, Plaintiff be awarded statutory damages of \$150,000 for
21 each copyrighted work infringed for Defendant's willful infringement as provided by 17
22 U.S.C. § 504;
- 23
24

1 6. that Plaintiff be awarded its attorneys' fees and costs as provided by 17 U.S.C.
2 § 505;

3 7. that the Court require Defendant to destroy all infringing copies; and

4 8. that Plaintiff be awarded such other and further relief as the Court may deem
5 proper and just.

6
7
8 Date: August 12, 2013

/s/ Mark J. Lee

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